

**Complaint Filed Against Judges in "Smart" Meter Case  
Information and Perspective by Warren Woodward  
Sedona, Arizona ~ November 28, 2015**

Yesterday I filed a complaint with the Arizona Commission on Judicial Conduct against the judges in my "smart" meter case.

It was wrong for Judge McClennen to do the work of the Defendants (the Arizona Corporation Commission and the five ACC commissioners) by asking to me to prove that his Court had jurisdiction. Plus, after McClennen demonstrated bias against me by doing the work of the Defendants, it was wrong for Presiding Judge Warner not to allow me a change judge.

According to its website, <http://www.azcourts.gov/azcjc/>, "The Commission on Judicial Conduct acts on complaints alleging one or more judges have engaged in judicial misconduct in a particular case or circumstance." The Commission is comprised of six judges, 2 lawyers and three members of the public. The Commission's proceeding will have no effect on McClennen's decision in my case or my current appeal of same, but it could result in some sort of disciplinary action against McClennen and Warner.

Because we seem to have two sets of laws in this country -- one for those in power and one for everybody else -- my guess is that at best McClennen and Warner might get a reprimand, but I felt it necessary to call attention to their misconduct anyway.

Here is my complaint:

At the very start of the case, McClennen showed his bias against me by doing the work of the Defendants by requiring me, the Plaintiff, to file a memo on jurisdiction.

This complaint is also against Judge Randall Warner since he incorrectly supported McClennen by not allowing me to change judges after McClennen had demonstrated his bias against me.

Not only did McClennen do the work of the Defendants, but I was astonished that he did not even understand the statute under which I was appealing. That, and the rest of what I am writing now, will be explained and fleshed out in the court documents I have enclosed. Taken in order, they tell the story.

Additionally, I have looked at the other complaints against McClennen and I don't know why this guy is still a judge.

I was unaware of the Local Rule that nixed my right to a one time change of judge without cause. So I tried again by filing an affidavit under A.R.S. 12-409(B)(5) that did give me the right to a change of judge if I showed cause. As you probably know, grounds for cause had to be "That the party filing the affidavit has cause to believe and does believe that on account of the bias, prejudice, or interest of the judge he cannot obtain a fair and impartial trial."

That was exactly what I 'had cause to believe and did believe.' So I filed an affidavit to that effect on July 30th.

In the affidavit, I stated that in attempting to dismiss my case as “untimely,” Judge McClennen was doing the work of the Defendants and therefore showing his bias. I also mentioned that his misconstruing the thirty day time period appeared intentional since he is an experienced judge who should know better.

The next day Judge Randall Warner, the Civil Court Presiding Judge to whom I presented my affidavit, ruled against me. According to him, “Bias and prejudice under A.R.S. § 12-409(B)(5) means a “hostile feeling or spirit of ill-will” or an “undue friendship or favoritism” towards a litigant.” He claimed I didn't show that. I was pretty sure I had shown there was a “hostile feeling or spirit of ill-will” towards me even though I hadn't used those exact words in my affidavit. I also think it was obvious McClennen showed favoritism towards the Defendants by doing their work for them.

Warner also stated, “Judicial bias or prejudice ordinarily has to come from an extrajudicial source and not what the judge has done in the case.” The key word there is “ordinarily.” Its inclusion means there must also be cases like mine that are not ordinary, but are in fact based on “what the judge has done in the case.” So, it seems clear to me that Warner was using a bogus argument just to support McClennen.

After Warner denied my request, the Rules of Civil Procedure became unclear to me, and I was unsure exactly what my options were. I also wasn't sure I wanted to spend more time pursuing this particular injustice even if I could figure out the rules, so I accepted Judge Warner's ruling. In other words, I felt, and I was, bamboozled. And I was certainly denied my right to a change of judge by showing cause.

I'll add that Warner's (mis)ruling is not supported by State v. Ellison, 213 Ariz. 116 at ¶¶ 38 and 40 (2006).

In ¶40, we find this: "without showing "[e]ither an extrajudicial source of bias [or any deep-seated favoritism". Obviously, the key word there is "or." There can be an extrajudicial source OR the "deep-seated favoritism" that McClennen demonstrated.

In ¶38, we find this: "[O]pinions formed by the judge on the basis of facts introduced or events occurring in the course of the current proceedings, or of prior proceedings, do not constitute a basis for a bias or partiality motion unless they display a deep-seated favoritism or antagonism that would make fair judgment impossible." The key word there is "unless." As such, that statement totally contradicts what Warner wrote about "ordinarily."

I am a college drop-out, untrained in law and whose pro se court experience consists of contesting a few traffic tickets, yet how is it I know more about this issue than the so-called experienced professionals? It's very disheartening for me to be denied justice by people like McClennen and Warner who are both schooled in law and experienced and so should know better. I am concerned not only for myself but also for the hapless others who come before them looking for and expecting justice.

There are only two explanations for the judges' behavior. 1) Despite their schooling and experience they are inept and doing sloppy work. 2) Their actions were neither inept nor sloppy but intentional. Either way, it does not look good, and they should not be judges.

Personally I suspect that what McClennen and Warner did was intentional since I would bet that, had I an attorney representing me, McClennen and Warner would not have dared attempt their pro-defendant actions. Unfortunately and despite quite a search, due to the specialized nature of my case and other factors, I could not find an attorney to represent me either for a fee or pro bono. Nevertheless, justice should be available to all, not just those who have an attorney. Pro se people should not be bamboozled by the likes of McClennen and Warner. Shame on them!